

APB Investments, LLC – MVN-2015-02191 WKK
Responses to Comments- Agencies

Project: APB Investments, LLC proposes to construct a labor housing complex and associated features in Lake Charles area to provide labor housing to companies such as Sasol and Axial. These two companies and other companies have invested a large amount of money to expand industrial activities. In order to accomplish this, approximately 120 acres are required. The proposed project is the construction of the housing complex consists of the following features: labor houses, access road and driveways between housing units, retention pond, green areas, pad spaces for generators, dumpsters, laundry, storage, warehouse, etc. In addition, it is planned to construct kitchen, recreation areas, fire pits, games areas, and bus stops. The elevation of the site will vary from 0 to +/- 2 feet in placement of in-situ material.

The goal and objective of the project is to provide a temporary workforce housing facility for the residential needs of workers/laborers. The proposed project will eliminate the need for expansive residential subdivision development for temporary workers. The facility will house, feed, and provide full service laundry and recreation.

The labor housing complex and related components will require approximately 120 acres. The entire site will require grading of some type. The low elevation portions of the subject property and identified wetlands are needed to be filled with in-situ material for the purpose of the proposed project, the much needed labor housing complex.

Comments and Responses:

Environmental Protection Agency (EPA)

- 1. EPA is particularly interested in addressing violations involving repeat or uncooperative offenders and individuals with prior knowledge of permit program requirements. The unauthorized clearing and construction activity circumvented the Clean Water Act Section 404 permitting process and resulted in unavoidable impacts. Specifically, the applicant has precluded the environmental protection process afforded by the Section 404 (b)(1) Guidelines which require that less damaging practical alternative be permitted when it is in the public's interest, and all practical measures to avoid, minimize, and mitigate impacts have been identified.***

Response:

Violations: The applicant received bad wetland advice from the original environmental consultant, almost to the point of malpractice. After following the advice of the second environmental consultant, the applicant self-reported the violation on December 7, 2015 after realizing what had been done. As for the 2nd violation, it was an unintentional mistake by an equipment operator and where he placed the material that was removed for the planned ground breaking ceremony. Most reasonable persons could have easily made the same mistake based on the existing site conditions.

The applicant hereby states that the actions taken were not intentional on either occasion. The applicant has acknowledged and apologized for its unintentional violations, has been actively cooperating with USACE since reported, and are prepared to reconcile any issues associated with them.

Alternative Analysis: The applicant had submitted “Needs and Alternative Analysis” to USACE on 08/30/2016. The alternative analysis considered six properties in the area. There are limited availability of properties that are suitable to implement this project, which require a minimum of 120 acres. The properties that were considered are:

1. Property No. 1: ML#110917, 1316 Highway 108, Sulphur, Louisiana
2. Property No. 2: ML#122073, 1316 Highway 108, Sulphur, Louisiana
3. Property No. 3: ML#115601, Bayou D’Inde, Sulphur, Louisiana
4. Property No. 4: ML#129038, 7400, John Brannan Road, Cartyss, Calcasieu, Louisiana and ML#129039, John Brannan Road, Cartyss, Calcasieu, Louisiana
5. Property No. 5: ML#115601, Sulphur
6. Property No. 6: Proposed Tracts A, B, and C

The following Table summarizes the properties and pros and cons associated with them.

Property No	Acreage	Land Use	Pros	Cons	Comments
1	75	Industrial	Non-Wetland Area Zoned Heavy Industrial Rail Access on East Side	Not Enough Acreage Approximately 14 pipelines cross the property Property currently cleared as pasture	Discarded from further consideration
2	67.39	Industrial	Non-Wetland Area Zoned Heavy Industrial Rail Access on East Side	Not Enough Acreage Approximately 2 pipelines cross the property Property currently cleared as pasture	Discarded from further consideration
3	80	C/R		Wetlands Not Enough Acreage	Discarded from further consideration
4	115	Agriculture		Not Enough Acreage Wetlands and low lying area	Discarded from further consideration
5	80			Not Enough Acreage	Discarded from further consideration
6	120	Timber Forests	Adequate Acreage Low Quality wetland, Mono Culture Available Infrastructure Low Wetland Impacts	Low quality wetland	Considered for the project

Property No. 6 was chosen to satisfy project requirements as described above. These tracts were used for timber cultivation and consist of low quality wetlands.



Figure 1. Preferred Alternative- Proposed Property

- 2. EPA recommends that a USACE permit not to be issued for this activity and that the applicant restore the site to pre-project conditions, unless it can be demonstrated that the project represents the least environmentally damaging practical alternative. EPA will be available to review any alternative analysis that might be provided by the applicant. If there are no less damaging sites for the project, the applicant should be required to examine the opportunities to minimize impacts on site by reducing and/or reconfiguring the proposed project.***

Response: The alternative analysis is briefly discussed above. The detailed analysis is attached as **Attachment 1**. The applicant requests that the permit may be issued after arriving at an appropriate compensatory mitigation for the unavoidable impact as required to satisfy the needs (Attachment 1).

3. *Should Corps find it in the public interest to issue a permit for the proposed project, compensatory mitigation within the project watershed should be provided for all unavoidable impacts that should fully offset all lost wetland functions and values.*

Response: Public Interest: The applicant knows that the proposed project is in the public interest. Capital development projects in the Southwest Louisiana Area is projected in the tens of billions of dollars in the upcoming years. As part of the projected industrial growth, the area faces unique challenges in provided ancillary services to the “mega” projects, such as housing, transportation, and storage of equipment and materials.

The work force on most of the construction sites consists of hundreds of workers who reside in places other than Southwest Louisiana. There was a comprehensive housing study secured by the local economic development alliance addressing the need to house the nonresident workers and the conclusion of the study is that temporary work housing is the preferred solution. Though the study concludes that the need for housing will peak in 2017/2018, as our construction advances, and other capital projects in the immediate area commence, we have already begun to experience the need for additional local housing for our work force.

The property subject of this application is uniquely situated in an area that is located on improved roadways, available public water and sewer and is commercially zoned by the local governing agencies. The first phase of developing this property is a planned temporary labor housing project. There are limited sites that are suitable for temporary housing due to location, traffic, zoning, etc. and this site is a preferred location with enough acreage and is suitable for the type of a development that would benefit most of the local capital projects.

As the projects develop, and the markets expand, additional development projects on this site could include expansion of the temporary labor housing, recreational vehicle parks, laydown or storage yards, parking, etc. At present there are no specific plans in place; however, it is important that the site be permitted and ready for the inevitable expansion.

There is widespread support for this project. The support letters will be forwarded.

4. *In this situation, pine savannah and/or coastal prairie mitigation banks may be suitable based on the type of soils and vegetative composition of the forest at the impacts site.*

Response: The applicant is in the process of finalizing the mitigation plan and will discuss with USACE to arrive at an appropriate compensatory mitigation for the unavoidable impacts.

Based on our responses above, we respectfully request that EPA withdraw its objection and work with the applicant and USACE to approve construction of this vital project and mitigate appropriately for damaged wetlands.



REPLY TO
ATTENTION OF:

DEPARTMENT OF THE ARMY
CORPS OF ENGINEERS, NEW ORLEANS DISTRICT
7400 LEAKE AVENUE
NEW ORLEANS, LOUISIANA 70118-3651

Operations Division
Western Evaluation Section

SUBJECT: MVN-2015-02191 WKK

APB Land Resources, L.L.C.
c/o Environmental Management Solutions, L.L.C.
ATTN: Mr. Mohan Menon
10725 Hillshire Avenue
Baton Rouge, Louisiana 70810

Dear Mr. Menon:

This is in regard to the above subject Department of the Army permit application to conduct clearing and grading operations, excavate approximately 94,100 cubic yards of earthen material for detention ponds and drainage ditches, and place approximately 35,000 tons of crushed aggregate for roadway, parking, and driving surfaces and 94,100 cubic yards of excavated earthen material and 5,000 cubic yards of hauled-in fill material for grading and shaping operations, all to prepare a 120 acre site for a labor housing development, located off Prater Road, in the community of Sulphur, Louisiana, in Calcasieu Parish.

In order to satisfy the requirements of our regulations, and comply with our 1990 Memorandum of Agreement with the US Environmental Protection Agency (EPA), it has been determined that compensatory mitigation will be required for unavoidable impacts to jurisdictional wetlands.

Enclosed is a list of approved mitigation banks, sponsor contact information, and required credits appropriate for your project. Your compensatory mitigation requirements may be met by obtaining the appropriate credits from the sponsor/sponsors listed on the enclosure and having the sponsor record your credit procurement in the Regional Internet Bank Information Tracking System (RIBITS). It is important that you contact the bank sponsor/sponsors listed to ensure the availability of the prescribed acreage and resource type.

Please advise your project manager, within 15 days of the date of this letter, as to the mitigation bank you have entered into an agreement with. The final permit will be provided once the above requirements are met. If you have any questions, please contact Sara Fortuna at (504) 862-2284.

Sincerely,

Darrell S. Barbara

for:

Martin S. Mayer
Chief, Regulatory Branch

Enclosure

Approved Mitigation Banks for
MVN-2015-02191-WKK

For TRACT "A"

1. **Bank Name:** Calcasieu Mitigation Bank
Sponsor: Ecosystem Investment Partners Credit Company, L.L.C.
- Contact:** Mr. Joe Williams (410) 982-0240- work
5550 Newbury Street joe@ecosystempartners.com
Suite B
Baltimore, Maryland 21209

Number of Acres/Credits Required: 20.5 acres of Pine Flatwoods/Savanna

AND

For TRACT "B"

1. **Bank Name:** Black Bayou Mitigation Bank Addendum I
Sponsor: B.H. Mitigation Company, L.L.C.
- Contact:** Mr. Will Grant (225) 922-5122- work
5667 Bankers Avenue (225) 938-7174 - cell
Baton Rouge, Louisiana 70810-2610 wgrant@powellgroup.com

Number of Acres/Credits Required: 21.4 acres of Bottomland Hardwoods

OR

2. **Bank Name:** Briar Marsh Mitigation Bank
Sponsor: Kathleen Bosley
- Contact:** Ms. Kathleen Bosley (337) 725-6141- work
230 Bill Jackson Lane (337) 224-7322 - cell
Ragley, Louisiana 70657

Number of Acres/Credits Required: 25.6 acres of Bottomland Hardwoods

OR

3. **Bank Name:** Nabours "No Hope" Farms Mitigation Bank
Sponsor: No Hope Farms

Contact: Mr. Russell Walters (337) 522-7207- work
2205 Pinhook Road (337) 962-0139- cell
Suite 200 Russell@jmbcompanies.com
Lafayette, Louisiana 70508

Number of Acres/Credits Required: 19.7 acres of Bottomland Hardwoods

OR

4. **Bank Name:** Petit Bois Mitigation Bank
Sponsor: Third Louisiana Resource, L.L.C.

Contact: Mr. Justin Ardoin (337) 443-6934- work
412 North Fourth Street (225) 372-6162 - fax
Suite 300 jardoin@res.us
Baton Rouge, Louisiana 70802

OR

Mr. Frank Savoy (225) 372-6161-work
412 North Fourth Street fsavoy@resmitigation.com
Suite 300
Baton Rouge, Louisiana 70802

Number of Acres/Credits Required: 22.9 acres of Bottomland Hardwoods

OR

5. **Bank Name:** South Fork Coastal Mitigation Bank
Sponsor: Delta Land Services, L.L.C.

Contact: Ms. Codi Moore (225) 388-5151- work
1090 Cinclare Drive (225) 718-0428 - cell
Port Allen, Louisiana 70767 (225) 343-3200 – fax
codi@deltaland-services.com

Number of Acres/Credits Required: 22.1 acres of Bottomland Hardwoods

AND

For TRACT "C"

1. Bank Name: Calcasieu Mitigation Bank

Sponsor: Ecosystem Investment Partners Credit Company, L.L.C.

Contact: Mr. Joe Williams
5550 Newbury Street
Suite B
Baltimore, Maryland 21209

(410) 982-0240- work
joe@ecosystempartners.com

Number of Acres/Credits Required: 5.9 acres of Pine Flatwoods/Savanna

AND

2. Bank Name: Black Bayou Mitigation Bank

Sponsor: B.H. Mitigation Company, L.L.C.

Contact: Mr. Will Grant
5667 Bankers Avenue
Baton Rouge, Louisiana 70810-2610

(225) 922-5122- work
(225) 938-7174 - cell
wgrant@powellgroup.com

Number of Acres/Credits Required: 21.0 acres of Coastal Prairie

OR

3. Bank Name: Black Bayou Mitigation Bank Addendum I

Sponsor: B.H. Mitigation Company, L.L.C.

Contact: Mr. Will Grant
5667 Bankers Avenue
Baton Rouge, Louisiana 70810-2610

(225) 922-5122- work
(225) 938-7174 - cell
wgrant@powellgroup.com

Number of Acres/Credits Required: 20.0 acres of Coastal Prairie

OR

4. Bank Name: English Bayou Mitigation Bank
Sponsor: B.H. Mitigation Company, L.L.C.

Contact: Mr. Will Grant (225) 922-5122- work
5667 Bankers Avenue (225) 938-7174 - cell
Baton Rouge, Louisiana 70810-2610 wgrant@powellgroup.com

Number of Acres/Credits Required: 22.1 acres of Coastal Prairie

OR

5. Bank Name: Lacassane Coastal Prairie Mitigation Bank
Sponsor: Lacassane Company

Contact: Ms. Lucinda H. O. Quinn (337) 721-5720- work
500 Kirby Street (337) 721-5721 - fax
Lake Charles, Louisiana 70601 lucinda@lacassane.com

OR

Contact: Mr. Chad Thielen (337) 721-5724- work
500 Kirby Street (337) 721-5725 - fax
Lake Charles, Louisiana 70601 cthielen@lacassane.com

Number of Acres/Credits Required: 20.0 acres of Coastal Prairie

OR

6. Bank Name: Moss Lake Mitigation Bank
Sponsor: Delta Land Services, L.L.C.

Contact: Ms. Codi Moore (225) 388-5151- work
1090 Cinclare Drive (225) 718-0428 - cell
Port Allen, Louisiana 70767 (225) 343-3200 – fax
codi@deltaland-services.com

Number of Acres/Credits Required: 26.0 acres of Coastal Prairie

OR

7. **Bank Name:** South Fork Coastal Mitigation Bank
Sponsor: Delta Land Services, L.L.C.

Contact: Ms. Codi Moore (225) 388-5151- work
1090 Cinclare Drive (225) 718-0428 - cell
Port Allen, Louisiana 70767 (225) 343-3200 – fax
codi@deltaland-services.com

Number of Acres/Credits Required: 21.3 acres of Coastal Prairie

From: [Gutierrez, Raul](#)
To: [Fortuna, Sara B CIV \(US\)](#)
Cc: [Zachary Chain](#); [Soileau, David](#); [Elizabeth Hill](#); [Peckham, Jeanene](#)
Subject: [EXTERNAL] MVN-2015-2191; APB Land Resources, LLC
Date: Monday, March 13, 2017 2:52:21 PM

Ms. Fortuna,

The Environmental Protection Agency (EPA) has reviewed the Public Notice dated February 20, 2017, concerning Department of the Army Permit Application Number MVN-2015-2191, submitted by APB Land Resources, LLC. The applicant is requesting an after-the-fact authorization to conduct clearing and grading operations, excavate approximately 94,100 cubic yards of earthen material for detention ponds and drainage ditches, and place approximately 35,000 tons of crushed aggregate for roadway, parking, and driving surfaces and 94,100 cubic yards of excavated earthen material and 5,000 cubic yards of hauled-in fill material for grading and shaping operations, all to prepare a 120 acre site for a labor housing development in Sulphur, Louisiana. After-the-fact work includes clearing and grading operations of 37.0 acres of forested wetlands. A total of approximately 61.3 acres of jurisdictional forested wetlands would be permanently impacted via project implementation. The comments that follow are being provided for use in reaching a decision relative to compliance with the EPA's Section 404(b)(1) Guidelines for Specification of Disposal Sites for Dredged or Fill Material (40 CFR Part 230).

The applicant is requesting an after-the-fact permit and should be advised that 1987 Amendments to the Clean Water Act provide EPA with the authority to pursue administrative penalties for discharges in violation of Section 301 of the Clean Water Act, in addition to our authority to seek civil sanctions. The EPA is particularly interested in addressing violations involving repeat or uncooperative offenders and individuals with prior knowledge of permit program requirements. The unauthorized clearing and construction activity circumvented the Clean Water Act Section 404 permitting process and resulted in avoidable impacts. Specifically, the applicant has precluded the environmental protection process afforded by the Section 404 (b)(1) Guidelines which require that a less damaging practicable alternative be permitted when it is in the public's interest, and all practicable measures to avoid, minimize, and mitigate impacts have been identified.

At this time, the EPA recommends that a Department of the Army Permit not be issued for this activity and that the applicant restore the site to pre-project conditions, unless it can be demonstrated that the project represents the least environmentally damaging practicable alternative. We are available to review any alternatives analyses that might be provided by the applicant. If there are no less damaging sites for the project, the applicant should be required to examine opportunities to minimize impacts on site by reducing and/or reconfiguring the proposed project. Finally, should the Corps find it in the public's interest to issue a permit for the proposed project, compensatory mitigation within the project watershed should be provided for all unavoidable impacts that should fully offset all lost wetland functions and values. In this situation, pine savannah and/or coastal prairie mitigation banks may be suitable based on the type of soils and vegetative composition of the forest at the impact site. Thank you for the opportunity to review and comment on the public notice. If you have any questions or additional information, please feel free to contact me.

Raul Gutierrez, Ph.D.

Wetlands Section (6WQ-EM)

US EPA Region 6

(504) 862-2371

Office:

US Army Corps of Engineers

New Orleans District

CEMVN-OD-SS

7400 Leake Ave

New Orleans, Louisiana 70118



JOHN BEL EDWARDS
GOVERNOR

State of Louisiana
DEPARTMENT OF WILDLIFE AND FISHERIES

JACK MONToucET
SECRETARY

February 22, 2017

Mr. Martin S. Mayer, Chief
Regulatory Branch
United States Army Corps of Engineers
7400 Leake Avenue
New Orleans, LA 70118

RE: *Application Number: MVN-2015-02191-WKK (after the fact)*
Applicant: APB Land Resources, LLC
Notice Date: February 20, 2017

Dear Mr. Mayer:

The professional staff of the Louisiana Department of Wildlife and Fisheries (LDWF) has reviewed the above referenced notice for the development of labor housing and associated structures, impacting approximately 61.3 acres of wetlands, in Calcasieu Parish, Louisiana. Work associated with this project was completed prior to obtaining a Department of the Army permit. Based upon this review, the following has been determined:

The applicant shall implement adequate erosion/sediment control measures to insure that no sediments or other activity related debris are allowed to enter any adjacent wetlands or waters. Accepted measures include the proper use of silt fences, straw bales, seeding or sodding of exposed soils or other Environmental Protection Agency construction site storm water runoff control best management practices. These measures shall be installed prior to the commencement of construction activities and maintained until the project is complete.

The applicant proposes to mitigate for impacts to wetland resources through the purchase of mitigation credits from an approved mitigation bank. While LDWF tentatively approves of this plan, we request that a final copy of the applicant's mitigation options be provided for agency review and comment prior to the issuance of any permit. Additionally, as this project may impact habitats that historically supported coastal prairie and longleaf pine savannah, it is the opinion of LDWF that those mitigation options include coastal prairie and longleaf pine savannah mitigation options.

The Louisiana Department of Wildlife and Fisheries submits these recommendations to the U.S. Army Corps of Engineers in accordance with provisions of the Fish and Wildlife Coordination Act (16 U.S.C.

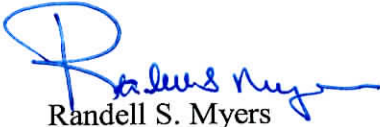
Page 2

Application Number: MVN-2015-02191-WKK (after the fact)

February 22, 2017

661 et seq.). Please do not hesitate to contact Habitat Section biologist Zachary Chain at 225-763-3587 should you need further assistance.

Sincerely,



Randell S. Myers
Assistant Secretary

zc/cm

c: EPA, Marine & Wetlands Section
USFWS Ecological Services

From: [Fortuna, Sara B CIV \(US\)](#)
To: [Gutierrez, Raul](#); [Zachary Chain](#); dbutler@wlf.la.gov
Cc: [Barbara, Darrell S CIV USARMY CEMVN \(US\)](#)
Subject: Mitigation Letter for Review- APB Land Resources MVN-2015-02191 WKK
Date: Monday, August 21, 2017 9:06:17 AM
Attachments: [APB Land Resources MVN-2015-02191 WKK MITIGATION LETTER.pdf](#)
[EPA LETTER MVN-2015-2191: APB Land Resources, LLC.pdf](#)
[LDWF LETTER MVN-2015-02191-WKK ATF.pdf](#)
Importance: High

Good Morning,

As part of the coordination with the agencies, it was requested that mitigation be reviewed and approved for APB Land Resources MVN-2015-02191 WKK. Attached is the mitigation letter, as well as, the EPA and LDWF comments for reference. You will see that mitigation is separated by Tract A, B, and C. Tract A was determined to have pine. Tract B was determined to have bottomland hardwood. Tract C was determined to have pine and coastal prairie. In the letter, mitigation is requested for each type. Please let me know if you have any questions.

Thank you,

Sara B. Fortuna
Environmental Resources Specialist
U.S. Army Corps of Engineers
New Orleans District
Regulatory Branch-Western Section
(504) 862-2284
Sara.B.Fortuna@usace.army.mil

From: [Gutierrez, Raul](#)
To: sara.b.fortuna@usace.army.mil
Cc: [Zachary Chain](#); [Soileau, David](#); [Elizabeth Hill](#); [Peckham, Jeanene](#)
Subject: MVN-2015-2191; APB Land Resources, LLC
Date: Monday, March 13, 2017 2:51:00 PM

Ms. Fortuna,

The Environmental Protection Agency (EPA) has reviewed the Public Notice dated February 20, 2017, concerning Department of the Army Permit Application Number MVN-2015-2191, submitted by APB Land Resources, LLC. The applicant is requesting an after-the-fact authorization to conduct clearing and grading operations, excavate approximately 94,100 cubic yards of earthen material for detention ponds and drainage ditches, and place approximately 35,000 tons of crushed aggregate for roadway, parking, and driving surfaces and 94,100 cubic yards of excavated earthen material and 5,000 cubic yards of hauled-in fill material for grading and shaping operations, all to prepare a 120 acre site for a labor housing development in Sulphur, Louisiana. After-the-fact work includes clearing and grading operations of 37.0 acres of forested wetlands. A total of approximately 61.3 acres of jurisdictional forested wetlands would be permanently impacted via project implementation. The comments that follow are being provided for use in reaching a decision relative to compliance with the EPA's *Section 404(b)(1) Guidelines for Specification of Disposal Sites for Dredged or Fill Material (40 CFR Part 230)*.

The applicant is requesting an after-the-fact permit and should be advised that 1987 Amendments to the Clean Water Act provide EPA with the authority to pursue administrative penalties for discharges in violation of Section 301 of the Clean Water Act, in addition to our authority to seek civil sanctions. The EPA is particularly interested in addressing violations involving repeat or uncooperative offenders and individuals with prior knowledge of permit program requirements. The unauthorized clearing and construction activity circumvented the Clean Water Act Section 404 permitting process and resulted in avoidable impacts. Specifically, the applicant has precluded the environmental protection process afforded by the *Section 404 (b)(1) Guidelines* which require that a less damaging practicable alternative be permitted when it is in the public's interest, and all practicable measures to avoid, minimize, and mitigate impacts have been identified.

At this time, the EPA recommends that a Department of the Army Permit not be issued for this activity and that the applicant restore the site to pre-project conditions, unless it can be demonstrated that the project represents the least environmentally damaging practicable alternative. We are available to review any alternatives analyses that might be provided by the applicant. If there are no less damaging sites for the project, the applicant should be required to examine opportunities to minimize impacts on site by reducing and/or reconfiguring the proposed project. Finally, should the Corps find it in the public's interest to issue a permit for the proposed project, compensatory mitigation within the project watershed should be provided for all unavoidable impacts that should fully offset all lost wetland functions and values. In this situation, pine savannah and/or coastal prairie mitigation banks may be suitable based on the type of soils and vegetative composition of the forest at the impact site. Thank you for the opportunity to review and comment on the public notice. If you have any questions or additional information, please feel free to contact me.

Raul Gutierrez, Ph.D.

Wetlands Section (6WQ-EM)

US EPA Region 6

(504) 862-2371

Office:

US Army Corps of Engineers

New Orleans District

CEMVN-OD-SS

7400 Leake Ave

New Orleans, Louisiana 70118

From: [Fortuna, Sara B CIV \(US\)](#)
To: [Gutierrez, Raul](#)
Subject: RE: MVN-2015-2191; APB Land Resources, LLC
Date: Friday, April 7, 2017 4:25:53 PM
Attachments: [APB Investments LLC Responses to Comments- Agencies.docx](#)

Raul,

Please review APB Land Resources response to EPA's comments.

Thanks,

Sara

-----Original Message-----

From: Gutierrez, Raul [<mailto:Gutierrez.Raul@epa.gov>]
Sent: Monday, March 13, 2017 2:52 PM
To: Fortuna, Sara B CIV (US) <Sara.B.Fortuna@usace.army.mil>
Cc: Zachary Chain <zchain@wlf.la.gov>; Soileau, David <david_soileau@fws.gov>; Elizabeth Hill <Elizabeth.Hill@la.gov>; Peckham, Jeanene <Peckham.Jeanene@epa.gov>
Subject: [EXTERNAL] MVN-2015-2191; APB Land Resources, LLC

Ms. Fortuna,

The Environmental Protection Agency (EPA) has reviewed the Public Notice dated February 20, 2017, concerning Department of the Army Permit Application Number MVN-2015-2191, submitted by APB Land Resources, LLC. The applicant is requesting an after-the-fact authorization to conduct clearing and grading operations, excavate approximately 94,100 cubic yards of earthen material for detention ponds and drainage ditches, and place approximately 35,000 tons of crushed aggregate for roadway, parking, and driving surfaces and 94,100 cubic yards of excavated earthen material and 5,000 cubic yards of hauled-in fill material for grading and shaping operations, all to prepare a 120 acre site for a labor housing development in Sulphur, Louisiana. After-the-fact work includes clearing and grading operations of 37.0 acres of forested wetlands. A total of approximately 61.3 acres of jurisdictional forested wetlands would be permanently impacted via project implementation. The comments that follow are being provided for use in reaching a decision relative to compliance with the EPA's Section 404(b)(1) Guidelines for Specification of Disposal Sites for Dredged or Fill Material (40 CFR Part 230).

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be provided by the applicant. If there are no less damaging sites for the project, the applicant should be required to examine opportunities to minimize impacts on site by reducing and/or reconfiguring the proposed project. Finally, should the Corps find it in the public's interest to issue a permit for the proposed project, compensatory mitigation within the project watershed should be provided for all unavoidable impacts that should fully offset all lost wetland functions and values. In this situation, pine savannah and/or coastal prairie mitigation banks may be suitable based on the type of soils and vegetative composition of the forest at the impact site. Thank you for the opportunity to review and comment on the public notice. If you have any questions or additional information, please feel free to contact me.

Raul Gutierrez, Ph.D.

Wetlands Section (6WQ-EM)

US EPA Region 6

(504) 862-2371

Office:

US Army Corps of Engineers

New Orleans District

CEMVN-OD-SS

7400 Leake Ave

New Orleans, Louisiana 70118

From: [Fortuna, Sara B CIV \(US\)](#)
To: [Gutierrez, Raul](#)
Subject: RE: MVN-2015-2191; APB Land Resources, LLC
Date: Tuesday, April 18, 2017 11:51:19 AM

Thanks Raul.

-----Original Message-----

From: Gutierrez, Raul [<mailto:Gutierrez.Raul@epa.gov>]
Sent: Monday, April 17, 2017 4:45 PM
To: Fortuna, Sara B CIV (US) <Sara.B.Fortuna@usace.army.mil>
Subject: [Non-DoD Source] RE: MVN-2015-2191; APB Land Resources, LLC

Sara,

We have reviewed the applicant's response to comments. We are ok with moving forward to determining appropriate compensatory mitigation. Let us know when you have worked up the LRAM worksheets and given the applicant their options. Thanks for coordinating this with us!

Raul Gutierrez

-----Original Message-----

From: Fortuna, Sara B CIV (US) [<mailto:Sara.B.Fortuna@usace.army.mil>]
Sent: Friday, April 07, 2017 4:24 PM
To: Gutierrez, Raul <Gutierrez.Raul@epa.gov>
Subject: RE: MVN-2015-2191; APB Land Resources, LLC

Raul,

Please review APB Land Resources response to EPA's comments.

Thanks,

Sara

-----Original Message-----

From: Gutierrez, Raul [<mailto:Gutierrez.Raul@epa.gov>]
Sent: Monday, March 13, 2017 2:52 PM
To: Fortuna, Sara B CIV (US) <Sara.B.Fortuna@usace.army.mil>
Cc: Zachary Chain <zchain@wlf.la.gov>; Soileau, David <david_soileau@fws.gov>; Elizabeth Hill <Elizabeth.Hill@la.gov>; Peckham, Jeanene <Peckham.Jeanene@epa.gov>
Subject: [EXTERNAL] MVN-2015-2191; APB Land Resources, LLC

Ms. Fortuna,

The Environmental Protection Agency (EPA) has reviewed the Public Notice dated February 20, 2017, concerning Department of the Army Permit Application Number MVN-2015-2191, submitted by APB Land Resources, LLC. The applicant is requesting an after-the-fact authorization to conduct clearing and grading operations, excavate approximately 94,100 cubic yards of earthen material for detention ponds and drainage ditches, and place approximately 35,000 tons of crushed aggregate for roadway, parking, and driving surfaces and 94,100 cubic yards of excavated earthen material and 5,000 cubic yards of hauled-in fill material for grading and shaping operations, all to prepare a 120 acre site for a labor housing development in Sulphur, Louisiana. After-the-fact work includes clearing and grading operations of 37.0 acres of forested wetlands. A total of approximately 61.3 acres of jurisdictional forested wetlands would be permanently impacted via project implementation. The comments that follow are being provided for use in reaching a decision relative to compliance with the EPA's Section 404(b)(1)

Guidelines for Specification of Disposal Sites for Dredged or Fill Material (40 CFR Part 230).

The applicant is requesting an after-the-fact permit and should be advised that 1987 Amendments to the Clean Water Act provide EPA with the authority to pursue administrative penalties for discharges in violation of Section 301 of the Clean Water Act, in addition to our authority to seek civil sanctions. The EPA is particularly interested in addressing violations involving repeat or uncooperative offenders and individuals with prior knowledge of permit program requirements. The unauthorized clearing and construction activity circumvented the Clean Water Act Section 404 permitting process and resulted in avoidable impacts. Specifically, the applicant has precluded the environmental protection process afforded by the Section 404 (b)(1) Guidelines which require that a less damaging practicable alternative be permitted when it is in the public's interest, and all practicable measures to avoid, minimize, and mitigate impacts have been identified.

At this time, the EPA recommends that a Department of the Army Permit not be issued for this activity and that the applicant restore the site to pre-project conditions, unless it can be demonstrated that the project represents the least environmentally damaging practicable alternative. We are available to review any alternatives analyses that might be provided by the applicant. If there are no less damaging sites for the project, the applicant should be required to examine opportunities to minimize impacts on site by reducing and/or reconfiguring the proposed project. Finally, should the Corps find it in the public's interest to issue a permit for the proposed project, compensatory mitigation within the project watershed should be provided for all unavoidable impacts that should fully offset all lost wetland functions and values. In this situation, pine savannah and/or coastal prairie mitigation banks may be suitable based on the type of soils and vegetative composition of the forest at the impact site. Thank you for the opportunity to review and comment on the public notice. If you have any questions or additional information, please feel free to contact me.

Raul Gutierrez, Ph.D.

Wetlands Section (6WQ-EM)

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